

REMARKS/ARGUMENTS

1. Status of the Claims.

In Applicants' reply to Examiner's Office Action mailed 10/20/2006, Applicants amended claims 20, 31, 32 and 33. In the present reply, Claims 20-37 are presented without amendments and Applicants assert that no new matter is presented and respectfully request entry of the same. Currently, Claims 20-37 are pending.

2. Rejection of Claims 20-29, and 31-37 under 35 U.S.C. 103(a) as being unpatentable over Moengen (US 6,373,508) should be withdrawn.

a. Moengen is non-analogous prior art and unrelated to Applicants' animal surveillance system:

The issue here is whether Moengen may be properly relied upon as a prior art reference for the purposes of rejecting Applicants' claims under §103(a). Applicants find that Moengen is non-analogous prior art and that the rejection must be withdrawn.

In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). *See* MPEP §2141.01(a).

Applying this rule to the present rejection, we will first look to the "field of applicant's endeavor." *Id.* The field of the present application is related to remote surveillance and communications technology, specifically applied to animal surveillance systems. *See* Specification, page 1, lines 7-9; Claims 20, 31 and 33. The claims of the

present application, in simplification, disclose a system for surveillance of animals through utilizing mobile communications units attached to the animal, GPS devices, and plurality of detectors which generate real-time video or infra-red imaging. In other words, the field of Applicants' endeavor is generally surveillance technology for use with animals. One would presumably implement this technology in agricultural use, zoos, or for tracking endangered species in the wild.

In comparison, the prior art reference of Moengen is related to the field of TV broadcasts and the improvement of following the object or movement thereof in ball games such as the puck in ice hockey, the ping pong ball in table tennis, or the golf ball in golf. *See* Moengen, col. 1, lines 27-41. Applicants do not see the connection between animal surveillance technology and the improvement of object or ball-following in TV broadcasts. Moengen comprises an different field of technology as to Applicants' endeavor for the purposes of analogous prior art.

Next, the rule of law states that analogous prior art must be "reasonably pertinent to the particular problem with which the inventor was concerned." *Oetiker*, 977 F.2d at 1446. The particular problem with which Applicants were concerned was the need for a more flexible and scaleable solution for monitoring and processing remote objects, specifically animals, according to more general context and related object conditions. *See* Specification, page 1, lines 25-27; Claims 20, 31 and 33. The claims solve the problem of animal surveillance through the use of an a plurality of detectors, as well as mobile communications units, GPS devices, and software which automates the process without the need for user input, i.e., "hand-off." *See* Claims 20, 31 and 33.

In contrast, Moengen is aimed at solving the problem of improving systems for ball or object-following in TV broadcasts through achieving full freedom to manipulate the picture of a natural object in a TV picture, utilizing less expensive and complicated systems, and for use of the system in all types of games or sports as well as other forms of broadcasts. *See* Moengen, col. 3, lines 5-15. Specifically, Moengen details the goals of the invention as 1) manipulating the picture of a natural object in the TV picture, in order to improve visibility of position and movement; 2) generating a synthetic representation of the natural object; 3) manipulating the shape and color of the synthetic object for better viewer recognition; 4) determining the path of the natural object so as to generate a synthetic track; and 5) a system to detect and process the movement of the natural object. *See* Moengen, col. 3, lines 16-43. Ultimately, Moengen is focused on better visualizing a movable object in a TV picture.

The Court has held that a reference is reasonably pertinent, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem. *Wang Laboratories Inc., v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993). The goals of Moengen are not reasonably pertinent to Applicants' problem of animal surveillance technology. The objectives of improving viewer conditions for tracking a ball or other natural object during a TV broadcast would not have logically been given Applicants' attention in considering the problem of animal surveillance. Moengen is primarily concerned with the problem of object representation and tracking in a TV picture, as well as generating a synthetic track of the object's movement. Moengen discloses a detailed discussion of calculating angles,

Application No.: 09/823,506 Page 10 of 12 Attorney Docket No.: FERN-P001D

vectors, and x & y positions of objects. These are not the matters one would research when inventing an animal surveillance system as claimed by Applicants.

In summary, Applicants argue that Moengen is not related to the field of Applicants' endeavor nor reasonably pertinent to the particular problem with which the inventor was concerned. Thus, Moengen is non-analogous prior art for the purposes of
5 analyzing obviousness under §103(a). *See* MPEP §2141.01(a). Therefore, the rejection of Claims 20-29 and 31-37 should be withdrawn.

3. **Rejection of Claim 30 under 35 U.S.C. 103(a) as being unpatentable over
10 Moengen (US 6,373,508) in view of Horton et al. (5,615,123) should be withdrawn.**

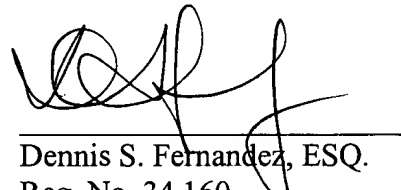
In light of the forgoing argument stating that Moengen is non-analogous prior art and thus not applicable to a rejection under §103(a), the present rejection of Claim 30 must also be withdrawn.

CONCLUSION

For these reasons, Applicants believe all pending claims 20-37 are in condition for allowance. If the Examiner has any questions pertaining to this application of feels that a telephone conference would in any way expedite the prosecution of this application, please do not hesitate to call the undersigned at 650.325.4999.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



Dennis S. Fernandez, ESQ.
Reg. No. 34,160

Date: 03/16/2007

Address: **FERNANDEZ & ASSOCIATES, LLP**
Patent Attorneys

Customer No: **22877**

Phone: (650) 325-4999
Fax: (650) 325-1203
Email: iploft@iploft.com